

REMARKS/ARGUMENTS

As an initial matter, the Applicant and the undersigned would like to thank the Examiner for the opportunity to discuss the present application during the personal interview held on April 21, 2010. During the interview, claims 1 and 16 were discussed in view of DE 197 13 606 C1 (Siring) and US 5,855,408 (Rickabus) and the amended claims 1 and 16 presented herein reflect the understanding reached during the interview.

By this Amendment, amendments have been introduced into the specification in order to improve and/or clarify the description.

In addition, claims 1, 3, 5, 9, 11, 16 and 18 have been amended. Claim 12 has been cancelled without prejudice and new claim 21 has been added.

Support for the amendments of claims 1 and 16 can be found, e.g., in paragraphs [0008] and [0019] and by a comparison of Figures 2 and 3 (i.e. one end 37 of the spring 34 does not move when the wall element 22 pivots between the first and second positions). Support for the addition of the rear trunk lid to claim 16 also can be found in paragraphs [0008] and [0016].

Support for the amendment of claim 11 can be found in previously-pending claim 12 and original claim 6.

New claim 21 finds support in original claim 1 and the above-noted support for the amendments of claims 1 and 16, as well as paragraph [0009].

The support for the remaining claim amendments is believed to be self-evident.

Claims 1-11 and 13-21 are pending for further examination.

Turning to paragraph 1 of the Office Action mailed February 4, 2010, the IDS filed 9/15/2006 was objected to as failing to comply with 37 CFR 1.98(a)(2), because copies of several of the foreign patent documents were not submitted.

In response, a new IDS is submitted herewith together with copies of the foreign patent documents. Consideration of the newly-filed IDS is respectfully requested.

In paragraphs 2-4 of the Office Action, claims 5-9 and 13 were objected to and rejected, because claim 5 depended from itself.

In response, claim 5 has been amended to depend from claim 4, as was suggested by the Examiner. Therefore, withdrawal of this objection and rejection is respectfully requested.

In paragraph 5 of the Office Action, an objection was made with respect to a substitute specification.

As was discussed during the interview, no substitute specification has been filed in the present application. Instead, the Preliminary Amendment dated September 15, 2006 is intended to be processed according to the usual amendment procedures. Therefore, withdrawal of this objection is respectfully requested.

In paragraph 7 of the Office Action, claims 1 and 16 were rejected as being anticipated by DE 197 13 606 C1 (Siring).

In paragraphs 8-9 of the Office Action, claims 2-20 were rejected as being obvious over Siring in view of US 5,855,408 (Rickabus).

As was discussed above, claims 1 and 16 have been amended to state that one end of the spring element is or remains stationary during pivoting of the wall element between the first and second positions.

As is apparent from Figs. 1-3 of Siring, the entire gas spring 13 pivots when the size of the convertible top receptacle is changed.

Similarly, as is apparent from Figs. 2-4 of Rickabus, the entire spring 60 pivots when the handle 20 pivots.

Therefore, neither Siring nor Rickabus teaches at least this feature of claims 1 and 16.

It would not have been obvious to a person of ordinary skill in the art to modify Siring and/or Rickabus to make one end of the spring stationary during the respective pivoting movements, as such a modification would change the principle of operation of the respective devices.

It is also submitted that a combination of Siring and Rickabus, more generally, also would not have been obvious, as a simple replacement of the gas spring 13 with a leaf spring according to Rickabus would not have led to a useful, predictable result.

New claim 21 is believed to distinguish over Siring and Rickabus for one or more of the above-noted reasons.

It is therefore believed that the pending claims are patentable and an early Notice of Allowance is respectfully solicited.

DEPOSIT ACCOUNT AUTHORIZATION

The present application is being filed prior to expiration of the shortened statutory period and thus no fees for extension of time are believed to be necessary.

However, in the event that this belief is incorrect, a petition for extension of time under 37 C.F.R. 1.136 is made hereby. Please charge any shortage of fees due in connection with the filing of this, concurrent and future responses, including extension of time fees, to Deposit Account 50-4953 and please credit any excess fees to such deposit account.

Finally, if the Examiner believes that a further interview, either telephonic or in person, will advance the prosecution of this application, it is respectfully requested that the Examiner contact the undersigned at the Examiner's convenience.

Respectfully submitted,

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By: /Jeffrey D. Tekanic/

Jeffrey D. Tekanic
Registration No. 36,031

J-TEK LAW PLLC
601 Pennsylvania Avenue, NW
Suite 900, South Building
Washington, DC 20004

Customer Number: 88037

Tel.: +1 202 434 8344
Fax: +1 202 747 2888
Email: jeff@jtek-law.com

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